

Message Text

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FM SECSTATE WASHDC

TO AMEMBASSY GUATEMALA

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E.O. 11652:N/A

TAGS: ETRN, GT, US

SUBJECT: FLOMERCA-DELTA SHIPPING PROBLEM

REF: GUATEMALA 1102 AND PREVIOUS

1. MR. EDWIN LONGCOPE OF HILL, BETTS & NASH, NYC, FLOMERCA'S US ATTORNEYS, CALLED AT THE DEPARTMENT FEBRUARY 25 FOLLOWING A VISIT TO THE FMC TO MAKE KNOWN HIS DISPLEASURE ABOUT THE TACTICS OF DELTA WITH RESPECT TO FLOMERCA AND THE RECENT REPRESENTATIONS MADE BY THE EMBASSY TO THE GUATEMALAN LINE'S MANAGEMENT. DURING ENSUING DISCUSSION OF FLOMERCA/DELTA DIFFICULTIES, LONGCOPE STATED THE POOLING ARRANGEMENT DELTA IS TRYING TO FORCE ON FLOMERCA WOULD NOT BE IN THE LATTER'S INTEREST, BUT THAT AN EQUAL ACCESS ARRANGEMENT POSSIBLY COULD BE WORKED OUT. HE INDICATED HE PLANNED TO CALL MIRON TO SUGGEST THAT FLOMERCA AGREE TO THE RESUMPTION OF TALKS WITH DELTA SHORTLY AFTER THE MARCH ELECTIONS.

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2. LONGCOPE CONSIDERS THE PRESENT DIFFICULTY WITH DELTA TO

BE ONLY ONE OF SEVERAL IN THE US-GUATEMALAN TRADE WHICH HE HOPES TO RESOLVE ON THE BASIS OF A PACKAGE DEAL. THE PROPOSED PACKAGE HE HAS IN MIND CALLS FOR A) PEACE WITH DELTA ON THE BASIS OF AN EQUAL ACCESS/SAILING AGREEMENT; B) RESOLUTION OF THE FMC PENALTY CLAIM AGAINST FLOMERCA;

C) ACCEPTANCE BY PRUDENTIAL GRACE, SEALAND AND DELTA OF A NEW CCT/FLOMERCA AGREEMENT (REPORTEDLY SIMILAR TO THE FMC APPROVED ACCORD BETWEEN FLOMERCA AND PAN AMERICAN MAIL LINES) WHICH LONGCOPE INTENDS TO FILE WITH THE FMC FOR APPROVAL; AND D) THE NEGOTIATION OF A RATE AGREEMENT BETWEEN THE CARRIERS IN THE TRADE.

3. LONGCOPE SPOKE WITH MIRON FEBRUARY 26. THE TWO AGREED THAT LONGCOPE, FOLLOWING HIS RETURN FROM EUROPE, WILL CONTACT MIRON THE WEEK OF MARCH 10 TO ARRANGE A DATE TO BEGIN DISCUSSIONS WITH DELTA IN GUATEMALA CITY. AS FOR DELTA, CAPTAIN CLARK SENT A LETTER TO FLOMERCA FEBRUARY 25 INDICATING HIS COMPANY'S WILLINGNESS TO RESUME DISCUSSIONS ON A COMMERCIAL AGREEMENT. IN THE MEANTIME, HOWEVER, WE UNDERSTAND DELTA EXPECTS TO PURSUE ITS SECTION 19 REQUEST WITH THE FMC.

COMMENT: APPARENTLY DELTA'S SECTION 19 STANCE IS TO BE USED AS LEVERAGE IN ATTEMPTING TO OBTAIN A POOLING AGREEMENT WITH FLOMERCA. WHETHER DELTA WILL ACCEPT A COMPROMISE SOLUTION IS NOT KNOWN. FYI - EQUAL ACCESS AGREEMENTS HAVE BEEN CONCLUDED IN OTHER US FOREIGN TRADES AS A MEANS OF SOLVING SIMILAR PROBLEMS (E.G. VEN-EZUELA). DELTA'S TACTICS, HOWEVER, COULD BE CONSTRUED AS A MISUSE OF AND CONTRARY TO THE INTENT OF SECTION 19. CONCEIVABLY UNDER CIRCUMSTANCES WHERE DELTA FOLLOWED A QUESTIONABLE PLOY AND THEREAFTER REJECTED A COMPROMISE, IT MIGHT BE DIFFICULT TO ARGUE FOR SECTION 19 ACTION. IN ANY EVENT, WE WOULD EXPECT THE FMC TO CONSULT WITH THE DEPARTMENT PRIOR TO TAKING ANY ACTION IN THIS REGARD. CASEY

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